

1 SCOTT P. COOPER, SBN 96905
scooper@proskauer.com
2 KEITH BUTLER, SBN 215670
kbutler@proskauer.com
3 PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
4 Los Angeles, California 90067-3206
Telephone: (310) 557-2900
5 Facsimile: (310) 557-2193

6 Attorneys for Defendant
7 MBIA, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 CITY OF OAKLAND,

12 Plaintiff,

13 v.

14 AMBAC FINANCIAL GROUP INC.;
15 MBIA, INC.; XL CAPITAL
16 ASSURANCE INC.; FINANCIAL
17 GUARANTY INSURANCE COMPANY;
CIFG ASSURANCE NORTH AMERICA,
INC.; JASON KISSANE; NEIL PACK;
and Does 1 – 50,

18 Defendants.
19
20
21
22
23
24
25
26
27
28

) Case No. CV08-4425 MMC

) Hon. Maxine M. Chesney

) **STIPULATION AND**
) **~~PROPOSED~~ ORDER**
) **WITHDRAWING OPPOSITION**
) **TO PLAINTIFF'S MOTION FOR**
) **REMAND AND WITHDRAWING**
) **MOTION TO TRANSFER**
) **VENUE, AND REMANDING**
) **ACTION TO STATE COURT**

STIPULATION AND ~~PROPOSED~~ ORDER WITHDRAWING OPPOSITION TO PLAINTIFF'S MOTION FOR REMAND AND MOTION TO TRANSFER
VENUE AND REMANDING ACTION TO STATE COURT

1 1. Whereas, Plaintiff City of Oakland filed a complaint in this action on or
2 about August 28, 2008 in San Francisco Superior Court;

3 2. Whereas, Defendant MBIA, Inc. filed a Notice of Removal of this
4 action to this Court on September 22, 2008;

5 3. Whereas actions similar to the Oakland action have been filed in Los
6 Angeles County Superior Court by the City of Los Angeles, and in San Francisco
7 County Superior Court by the City of Stockton, and removed by Defendants to the
8 United States District Courts for the Central District and Northern District of
9 California, respectively;

10 4. Whereas, Plaintiff filed a Motion For Remand To State Court in this
11 action on September 30, 2008;

12 5. Whereas, Plaintiff also filed Motions For Remand To State Court in the
13 Los Angeles and Stockton actions;

14 6. Whereas, Defendants filed Joint Oppositions to the Plaintiffs' Motions
15 For Remand in each of the Los Angeles, Stockton and Oakland actions;

16 7. Whereas, Judge Fairbank of the United States District Court for the
17 Central District of California granted Plaintiff's Motion For Remand To State Court
18 in the Los Angeles action on October 20, 2008;

19 8. Whereas, Defendants have agreed to withdraw their Joint Opposition to
20 Plaintiff's Motion For Remand in this action and the Stockton action;

21 9. Whereas, all parties to this action and the Stockton action have agreed
22 to stipulate to the remand of this action and the Stockton action as pleaded to state
23 court;

24 10. Whereas, Defendants filed a Motion to Transfer Venue in this action
25 on October 17, 2008;

26 11. Whereas, Defendants have agreed to withdraw their Motion to
27 Transfer Venue in this action;

12. Whereas, a similar stipulation will be filed concurrently herewith in the Stockton action;

13. Whereas, the parties agree to bear their own attorneys' fees and costs with respect to all proceedings in the District Court;

Now, therefore, the parties hereby stipulate as follows:

1. Defendants' Joint Opposition to Plaintiff's Motion For Remand and Defendants' Motion to Transfer Venue in this action are withdrawn, and this action as currently pleaded should be remanded to state court, all parties to bear their own costs and fees.

IT IS SO STIPULATED.

DATED: October 22, 2008

PROSKAUER ROSE LLP

By: 

Scott P. Cooper (SBN 96905)

scooper@proskauer.com

Keith Butler (SBN 215670)

kbutler@proskauer.com

2049 Century Park East, 32nd Floor

Los Angeles, CA 90067-3206

Telephone: (310) 557-2900

Facsimile: (310) 557-2193

*Attorneys for Defendant
MBIA, INC.*

1 DATED: October 22 2008

COTCHETT, PITRE & McCARTHY

2
3 By: Nanci E. Nishimura
4 Joseph W. Cotchett (SBN 36324)
5 *jcotchett@cpmlegal.com*
6 Nanci E. Nishimura (SBN 152621)
7 *nnishimura@cpmlegal.com*
8 Stuart G. Gross (SBN 251019)
9 *sgross@cpmlegal.com*
10 San Francisco Airport Office Center
11 840 Malcolm Road, Suite 200
12 Telephone: (650) 697-6000
13 Facsimile: (650) 6979-0577

11 CITY OF OAKLAND, CALIFORNIA
12 John A. Russo (SBN 129729)
13 *jrusso@oaklandcityattorney.org*
14 One Frank H. Ogawa Plaza, 6th Floor
15 Oakland, CA 94612
16 Telephone: (510) 238-3034
17 Facsimile: (510) 238-6500

16 RENNE SLOAN HOLTZMAN & SAKAI
17 LLP
18 Louise H. Renne (SBN 36508)
19 *lrenne@rshslaw.com*
20 3050 Sansome St., #300
21 San Francisco, CA 94104
22 Telephone: (415) 678-3805
23 Facsimile: (415) 678-3838

22 *Attorneys for Plaintiff*
23 *CITY OF OAKLAND*

1 DATED: October 22, 2008

MURPHY, PEARSON, BRADLEY & FEENEY

2
3 By: James A. Murphy *KL3*

4 James A. Murphy
jmurphy@mpbf.cm

5 John P. Girarde
jgirarde@mpbf.com

6 88 Kearny Street, 10th Floor

7 San Francisco, CA 94108

8 Telephone: (415) 788-1900

9 Facsimile: (415) 393-8087

10 PATTERSON BELKNAP WEBB &
TYLER LLP

11 Robert P. LoBue

12 *rplobue@pbwt.com*

13 Brian N. Lasky

14 *bnlasky@pbwt.com*

Ella Campi

15 *ecampi@pbwt.com*

16 1133 Avenue of the Americas

17 New York, NY 10036

18 Telephone: (212) 336-2000

19 Facsimile: (212) 336-2222

20 *Attorneys for Defendant*
21 *AMBAC FINANCIAL GROUP, INC.*

1 DATED: October 22, 2008

LOEB & LOEB LLP

2
3 By: Daniel G. Murphy *KB*
4 Daniel G. Murphy
5 *dmurphy@loeb.com*
6 W. Allan Edmiston
7 *aedmiston@loeb.com*
8 10100 Santa Monica Blvd., Suite 2200
9 Los Angeles, CA 90067-4120
10 Telephone: (310) 282-2000
11 Facsimile: (310) 282-2200

DEBEVOISE & PLIMPTON LLP

10 Mark P. Goodman
11 *mpgoodman@debevoise.com*
12 Elliot Greenfield
13 *egreenfield@debevoise.com*
14 919 Third Avenue
15 New York, NY 10022
16 Telephone: (212) 909-6000
17 Facsimile: (212) 909-6836

18 *Attorneys for Defendant*
19 *XL CAPITAL ASSURANCE INC.*

1 DATED: October 22, 2008

RICHARDS KIBBE & ORBE LLP

2
3 By: David W.T. Daniels *FWB*
4 David W.T. Daniels
5 *ddaniels@rkollp.com*
6 701 8th Street NW, Suite 300
7 Washington, DC 20001
8 Telephone: (202) 261-2960
9 Facsimile: (202) 261-2999

RICHARDS KIBBE & ORBE LLP

H. Rowan Gaither, IV

rgaither@rkollp.com

Shari Brandt

sbrandt@rkollp.com

Brian S. Fraser

bfraser@rkollp.com

One World Financial Center

New York, NY 10281

Telephone: (212) 530-1800

Facsimile: (212) 530-1801

16 *Attorneys for Defendant*
17 *FINANCIAL GUARANTY INSURANCE*
18 *COMPANY*

1 DATED: October 22, 2008

PACHULSKI, STANG, ZIEHL & JONES LLP

2
3 By: Kenneth H. Brown *KL*

Kenneth H. Brown

kbrown@pszjlaw.com

150 California Street, 15th Floor

San Francisco, CA 94111-4500

Telephone: (415) 263-7000

Facsimile: (415) 263-7010

8 CADWALADER, WICKERSHAM &
9 TAFT LLP

Jonathan M. Hoff

jonathan.hoff@cwt.com

One World Financial Center

New York, NY 10281

Telephone: (212) 504-6000

Facsimile: (212) 504-6666

Attorneys for Defendant
CIFG ASSURANCE NORTH AMERICA

16 **~~[PROPOSED]~~ ORDER**

18 PURSUANT TO THE STIPULATION OF THE PARTIES, IT IS
19 ORDERED that this action is hereby remanded to state court, all parties to bear their
20 own costs and fees.

23 October 27, 2008

24 *Margaret M. Cheney*
25 UNITED STATES DISTRICT JUDGE